

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>DAVID ANTHONY McKINNEY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>CIVIL NO. 07-495-GPM</b>
	)	
<b>ALBERTO GONZELES, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM AND ORDER**

**MURPHY, District Judge:**

On September 6, 2007, the Court directed Plaintiff to either pay the \$350 filing fee for this action or file a properly supported motion for leave to proceed *in forma pauperis* (Doc. 3). Instead of complying with that order, Plaintiff has filed a response (Doc. 4) explaining that he has no funds and that he does not even have the postage to file such a motion. Ironically, though, Plaintiff states that he was able to borrow postage from a fellow inmate in order to mail this response. This begs the question – if Plaintiff was able to borrow postage to file this response to a court order, why could he not borrow postage to file an *in forma pauperis* motion as directed by the Court? Giving him the benefit of the doubt, the Court will give him additional time to do just that.

**IT IS HEREBY ORDERED** that, within **THIRTY (30) DAYS** of the date of the entry of this order, Plaintiff shall pay the \$350 filing fee applicable to this action. In the alternative, Plaintiff may file a motion to proceed *in forma pauperis*, supported by a certified copy of his prison trust fund account statement for the six-month period immediately preceding the filing of the complaint and an affidavit that includes a statement of his assets. Plaintiff is **ADVISED** that in the event he has

been transferred among institutions during this six-month period, it is Plaintiff's responsibility to obtain a copy of his prison trust account statement from each such facility and to forward it to the Court. Plaintiff is **FURTHER ADVISED** that his obligation to pay the filing fee for this action was incurred at the time the action was filed; such an obligation will exist whether or not Plaintiff is granted leave to proceed *in forma pauperis*. 28 U.S.C. § 1915(b)(1); *see also Lucien v. Jockisch*, 133 F.3d 464, 467 (7<sup>th</sup> Cir. 1998).

**IT IS FURTHER ORDERED** that upon conclusion of this thirty-day period, should Plaintiff fail to comply with this order, this case will be closed for failure to comply with an order of this Court. FED.R.CIV.P. 41(b); *see generally Ladien v. Astrachan*, 128 F.3d 1051 (7<sup>th</sup> Cir. 1997); *Johnson v. Kamminga*, 34 F.3d 466 (7<sup>th</sup> Cir. 1994).

The Clerk is **DIRECTED** to provide Plaintiff with a sufficient number of *in forma pauperis* motion forms to enable him to comply with this order.

**IT IS SO ORDERED.**

DATED: 10/16/07

s/ *G. Patrick Murphy*  
G. Patrick Murphy  
United States District Judge